

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

GARY BROWN

Plaintiff,

v.

VINICOUS RIBEIRO SILVA AND EBS
FLOORING LLC and BERKSHIRE
HATHAWAY GUARD INSURANCE
COMPANY

Defendants.

Civil Action No.:
1:22-cv-1761-CPO-AMD

CIVIL ACTION

**ANSWER, SEPARATE DEFENSES,
CROSSCLAIM AND DEMAND FOR
JURY TRIAL**

The answering defendants, Vinicous Ribeiro Silva and EBS Flooring LLC, by way of Answer to the Complaint say:

I. JURISDICTION

1. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1, and accordingly, leave plaintiff to his proofs.
2. The allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are admitted.
4. The allegations of paragraph 4 are denied.
5. The answering defendants make no response to the allegations of paragraph 5 insofar as same are not directed to the answering defendants.

6. The answering defendants make no response to the allegations of paragraph 6 insofar as same are not directed to the answering defendants.

7. The allegations of paragraph 7 are denied.

8. The allegations of paragraph 8 are admitted.

II. PARTIES

1. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and, accordingly, leave plaintiff to his proofs.

2. The allegations of paragraph 2 are denied.

3. The allegations of paragraph 3 are denied.

4. The allegations of paragraph 4 are admitted.

5. The allegations of paragraph 5 are denied.

6. The answering defendants make no response to the allegations of paragraph 6 insofar as same are not directed to the answering defendants.

7. The answering defendants make no response to the allegations of paragraph 7 insofar as same are not directed to the answering defendants.

8. The answering defendants make no response to the allegations of paragraph 8 insofar as same are not directed to the answering defendants.

9. The answering defendants make no response to the allegations of paragraph 9 insofar as same are not directed to the answering defendants.

III. CAUSE OF ACTION

1. The allegations of paragraph 1 are denied.
2. The allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are admitted.
4. The allegations of paragraph 4 are denied.
5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.
7. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and, accordingly, leave plaintiff to his proofs.
8. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 and, accordingly, leave plaintiff to his proofs.
9. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 and, accordingly, leave plaintiff to his proofs.
10. The allegations of paragraph 10 are admitted.
11. The allegations of paragraph 11 are admitted.

12. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 and, accordingly, leave plaintiff to his proofs.

13. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 and, accordingly, leave plaintiff to his proofs.

14. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 and, accordingly, leave plaintiff to his proofs.

15. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 and, accordingly, leave plaintiff to his proofs.

16. The answering defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 and, accordingly, leave plaintiff to his proofs.

COUNT I

1. The allegations of paragraph 1 are admitted.
2. The allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are denied.

4. The allegations of paragraph 4 are denied.
5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.

COUNT II

1. The allegations of paragraph 1 are denied.
2. The allegations of paragraph 2 are denied.
3. The allegations of paragraph 3 are denied.
4. The allegations of paragraph 4 are denied.
5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.
7. The allegations of paragraph 7 are denied.

COUNT III

1. The allegations of paragraph 1 are denied.
2. The allegations of paragraph 2 are denied.
3. The allegations of paragraph 3 are denied.
4. The allegations of paragraph 4 are denied.
5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.
7. The allegations of paragraph 7 are denied.

COUNT IV

1. The allegations of paragraph 1 are denied.
2. The allegations of paragraph 2 are denied.
3. The allegations of paragraph 3 are denied.
4. The allegations of paragraph 4 are denied.

5. The allegations of paragraph 5 are denied.
6. The allegations of paragraph 6 are denied.
7. The allegations of paragraph 7 are denied.

COUNT V

1. The allegations of paragraph 1 are denied.
2. The allegations of paragraph 2 are denied.
3. The allegations of paragraph 3 are denied.

COUNT VI

The answering defendants make no response to the allegations of Count VI insofar as same are not directed to the answering defendants.

COUNT VII

1. The answers to all paragraphs of the Plaintiff's Complaint are hereby incorporated for the sake of brevity in lieu of formal repetition and the same made the answer to paragraph 1 of Count VII.

2-7. The answering defendants make no response to the allegations of paragraphs 2-7 insofar as same are not directed to the answering defendants.

SEPARATE DEFENSES

1. The answering defendants are not guilty of the negligence alleged.

2. The answering defendants performed each and every duty and obligation owed the plaintiff herein.

3. The answering defendants violated no duty or obligation owed the plaintiff herein.

4. The injuries and damages, if any, sustained by the plaintiff were the result of plaintiff's own negligence and/or contributory negligence and, accordingly, plaintiff is debarred from recovery.

5. At the time and place asserted, the answering defendant was legally operating his/her motor vehicle when, through the negligence of other persons, he/she was confronted with a sudden emergency under the circumstances of which an accident was unavoidable through any action on his/her part.

6. The injuries and damages, if any, sustained by the plaintiff were the result of the negligence of third persons over whom answering defendants exercised no control or right of control.

7. The plaintiff's action is barred by the New Jersey Automobile Insurance Cost Reduction Act, and, accordingly, the answering defendants reserve the right to move to dismiss the Complaint at any time prior to or including at time of trial.

8. The injuries and damages, if any, sustained by the plaintiff were the result of the plaintiff's own negligence and/or contributory negligence and, accordingly, plaintiff is debarred

from recovery or limited to recovery in accordance with the provisions of N.J.S.A. 2A:15-5.1, et seq.

9. The answering defendants assert that the Complaint was not timely filed within the applicable Statute of Limitations and, accordingly, the answering defendants reserve the right to move to dismiss the Plaintiff's Complaint at any time prior to or including at the time of trial.

CROSSCLAIM FOR DECLARATORY JUDGMENT

TO: CO-DEFENDANT, BERKSHIRE HATHAWAY GUARD INSURANCE COMPANY

1. The answering defendants repeat and incorporate the allegations contained in Count VI and Count VII of Plaintiff's Complaint.

WHEREFORE, the answering defendants demand seek an Order declaring that the policy of insurance issued by Berkshire Hathaway Guard Insurance Company extends coverage to the answering defendants for the losses alleged by the plaintiff, Gary Brown in addition to awarding the answering defendants costs and reasonable attorney's fees.

DEMAND FOR JURY TRIAL

ANSWERING DEFENDANTS HEREBY DEMAND A TRIAL BY JURY AS TO ALL ISSUES.

CERTIFICATION OF TIMELY SERVICE

I Certify that the within pleading was served by electronic service within the time period allowed under the Federal Rules of Civil Procedure.

MARGOLIS EDELSTEIN

Attorney for Defendants,
Vinicous Ribeiro Silva and
EBS Flooring LLC

Date: April 29, 2022

s/ Robert M. Kaplan
By: Robert M. Kaplan
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CERTIFICATION OF SERVICE

I hereby certify that I electronically filed the within Answer to Plaintiff's Complaint, Crossclaim and Demand for Jury Trial and this Certificate of Service with the Clerk of the United States District Court.

I declare under penalty of perjury that the foregoing is true and correct.

MARGOLIS EDELSTEIN
Attorney for Defendants,
Vinicous Ribeiro Silva and
EBS Flooring LLC

Date: April 29, 2022

s/ Robert M. Kaplan
By: Robert M. Kaplan
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